

Remarks

Claims 1,2, 4-12, and 14-20 remain pending. In an office action dated 2 May 2007, the Examiner rejected claim 1 based on nonstatutory obviousness-type double patenting over application serial number 10/676,390. A terminal disclaimer of application serial number 10/676390 is submitted herewith.

Claim 1 was also objected to under 37 CFR 1.75(a). Applicant amends claim 1 to add data/control signals to the claimed limitations.

Claims 7-10 and 17-20 were objected to under 37 CFR 1.75(d). Applicant amends claim 7, 8, 10, 17, 18, and 20 to change "serial wire interface" to "communication medium."

Claims 1-2, 4-12, and 14-20 were rejected under 35 USC 102(e) as being anticipated by Fujimori et al. (US 2004/0030805 A1). Applicant traverses this rejection. Directing Examiner's attention to MPEP 2131, the threshold issue under Section 102 is whether the Examiner has established a *prima facie* case for anticipation. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)". "The identical invention must be shown in as complete detail as is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1566 (Fed. Cir. 1989). The elements must be arranged as required by the claim but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Specifically, Applicant submits that a crypto engine and crypto communication module, as described in the present application and claimed in claims 1, 2,

4-12 and 14-20, is not the equivalent of Fujimori's 64B/66B Encoder/Scrambler 326. Fujimori explicitly discloses in paragraph [0049] that the purpose of Encoder/Scrambler 326 is communication synchronization: "64B/66B Encoder/Scrambler 326 ensures that sufficient transitions are present in the PHY bit stream to make clock recovery possible at the receiver." Encoding and scrambling are data transmission functions focused on ensuring synchronized communication. Encryption, however, is a function focused on security of data transmission, namely making deciphering of transmitted data impossible for unintended recipients. In present application, crypto devices are used at both the transmitting end and receiving end to provide encryption and authentication of packets communicated between the two. Applicant respectfully submits that communication synchronization between a transmitter and a receiver has NO RELATION to encryption. If the Examiner disagrees, Applicant respectfully requests the Examiner provide evidence supporting the assertion that encryption and synchronization are equivalent.

If the Examiner wishes to argue that encryption is inherently equivalent to communication synchronization, Applicant traverses such an argument as well. In order to support an anticipation rejection based on inherency, an Examiner must provide factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int. 1990); *In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (holding that inherency must flow as a necessary conclusion from the prior art, not simply a possible one).

If the Examiner has any questions regarding this response or the application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

Respectfully submitted,
SIERRA PATENT GROUP, LTD.

Dated: October 2, 2007

/john w. crosby/

John W. Crosby
Reg. No.: 49,058

Sierra Patent Group, Ltd.
1657 Hwy 395, Suite 202
Minden, NV 89423
(775) 586-9500